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United States Senate

COMMITTEE ON SMALL BUSINESS

WASHINGTON, DC 20510-6350

July 6, 2000

The Honorable Aida Alvarez
Administrator, Small Business Administration
409 Third Street SW
Washington, DC 20416

Dear Administrator Alvarez:

Recently I received a copy of Administrator's Memo No. 423 of May 12, 2000, in which you provided information to Small Business Administration (SBA) employees on how to participate in the Million Mom March (March) on Sunday, May 14. A copy of this memo is attached for your convenient reference.

Although your memo explicitly states that it should not be construed as an "official endorsement" of the March activities, you provided material supplied directly from the March organizers for the information of SBA employees. The language of the material is very clearly derived directly from the organizers of the March and is in no way a neutral statement of information. In fact, the material you circulated includes a World Wide Web address for the March organizers and includes information on how to become registered. Moreover, the material encourages readers to become registered. I quote from the language you circulated in your memo:

REGISTRATION

It is crucial that you remind people when you are speaking to them to register for the Million Mom March. Our database is growing and it is the only way for us to reach them with updates and new information about the March as we get closer to May 14th. The Web Site is www.millionmomsmarch.com or they can call [1-888-989-MOMS](tel:1-888-989-MOMS).

Circulating this statement as part of your memo raises concerns about the possible misuse of official Government resources for the benefit of an outside organization not related to SBA's mission. Although you state in your memo that it is for voluntary reference of interested SBA employees, I am disturbed at the prospect that appropriated funds and Government resources appear to have been used to help supplement an outside organization's development of a mailing list.

Regulations of the Office of Government Ethics (OGE) further amplify my concerns on this point. OGE's provision at 5 CFR § 2635.704 sets a general standard for how Government resources are to be used, and what constitutes misuse of those resources:

(a) *Standard*. An employee has a duty to protect and conserve Government property and shall not use such property, or allow its use, for other than authorized purposes.

* * *

(b) *Definitions*.

* * *

(2) *Authorized purposes* are those purposes for which Government property is made available to members of the public or those purposes authorized in accordance with law or regulation.

Obviously, this does not preclude some *de minimis* uses, such as for an employee to call a spouse to notify him or her of an expected late night at work, or even a memo from you to inform employees of expected traffic problems associated with Million Mom March activities if such activities were going to be held on a work day. Your memo, however, is of an entirely different order of magnitude; it uses Government resources to circulate a statement encouraging readers to register for the mailing list of an outside entity.

Moreover, I find it hard to comprehend how presenting the views of this one outside organization has anything to do with the responsibilities of the Small Business Administration. The Fiscal 2000 appropriation language passed by the Congress and signed by the President clearly states the purposes of SBA's appropriation:

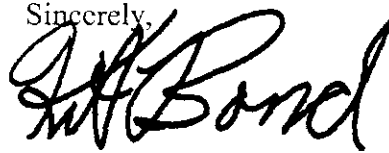
For necessary expenses, not otherwise provided for, of the Small Business Administration as authorized by Public Law 105-135 [the Small Business Reauthorization Act of 1997], including hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344, and not to exceed \$3,500 for official reception and representation expenses, \$282,300,000. . .

Since the funds used to circulate this solicitation for an outside organization are clearly not "passenger motor vehicles" or "official reception and representation expenses," it would appear that these expenditures must somehow be authorized by Public Law 105-135. I am not aware of any provision of that law allowing Government resources to be converted to the benefit of a private entity advocating legislation of any kind. The point of view of the organization is not at issue; the issue is the use of Government resources for any such entity not related to SBA's mission.

The Honorable Aida Alvarez
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Attached please find several questions that will help me understand your thinking on this matter. I would appreciate your prompt and thorough response. The questions are numbered for your convenient reference; in your response, please indicate by number each question to which you are responding, and restate the question prior to your answer. I would appreciate receiving your response not later than noon on July 28, 2000. If you have questions, please feel free to contact Cordell Smith of my Small Business Committee staff on (202)224- .

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Bond", written in a cursive style.

Christopher S. Bond
Chairman

CSB:ces

Questions Concerning Administrator's Memo No. 423 of May 12, 2000

[1] Who determines what is an "authorized purpose" for the use of SBA resources, as provided under 5 CFR § 2635.704?

[2] Since the memo includes an express disclaimer that your memo was not an "official endorsement" of the Million Mom March, what is the nexus between SBA and the Million Mom March that made it an "authorized purpose"?

[3] Did you, SBA's General Counsel, or the person described in your response to question [1] conduct any review of the memo, prior to its release, to ascertain whether it advanced an "authorized purpose" under 5 CFR § 2635.704? Please provide copies of any letters, opinions, electronic mail (e-mail) messages, or other correspondence on this question.

[4] Did you or any other SBA employee seek guidance from the Office of Government Ethics concerning the appropriateness of this memo? If so, please provide copies.

[5] How does the memo conform to the Fiscal 2000 Commerce-Justice-State-Judiciary Appropriations Act language stating the purposes for which taxpayer funds were appropriated to the Small Business Administration?

[6] What programs or functions of the Small Business Reauthorization Act of 1997 (Public Law 105-135 of December 2, 1997) were advanced by the memo?

[7] What programs or functions of any other Act within SBA's jurisdiction were advanced by the memo?

Please provide your response not later than noon on July 28, 2000. If you have questions about this matter, please contact Cordell Smith of the Senate Small Business Committee staff on (202)224-

Date: May 12, 2000
To: All SBA Employees
From: Aida Alvarez
Administrator
Subject: The Million Mom March

This Sunday, May 14, there will be activities scheduled in Washington, DC and in cities across the country to bring attention to the tragedies associated with gun violence. I have received many inquiries about these activities and thought that for those who are interested we would provide some basic information on where and when these activities are scheduled. This is not an official endorsement but merely information for those who wish to participate. The information provided below has been provided by the organizers of the Million Mom March.

MILLION MOM MARCH SCHEDULE

**Sunday, May 14, 2000
Washington, D.C.**

Location

The National Mall (Between 4th and 9th St.), Washington, DC
Metro Stops: Smithsonian, Federal Triangle, L'Enfant Plaza, Federal Center SW, Archives/Navy Memorial, and Union Station.

Highlights

*Speakers, entertainers, and many special guests will join us throughout the day on two different stages, the Main Stage at 4th Street and the Family Stage on 9th Street. The 9th Street Stage will be a special area designed for interactive family activities, complete with entertainers and speakers who will delight, inform, and highlight how our families flourish in a safe and happy environment.

*The majority of speakers are victims or survivors of gun violence, including Sarah and Jim Brady, Kayla's Mom, Columbine parents and local DC mothers who have lost children. New York Congresswoman Carolyn McCarthy and Maryland Lt. Governor Kathleen Kennedy Townsend will be among the survivors addressing the march. They will also be joined by Marion Wright Edelman of the Children's Defense Fund.

*Rosie O'Donnell heads up an ever-growing list of celebrities who are spreading the message about the importance of sensible gun legislation. Celebrities who will be joining Rosie on stage include: Rosanne Cash, Patty Smythe, John McEnroe, Emmylou Harris, Melissa Manchester, Suzanne Douglas, Virginia Madsen, Raffi and Scotland's Ted Christopher Band, amongst others.

*The procession portion of the Million Mom March will kickoff at 11:00 and will proceed to the 4th Street Stage. Kids of all ages are welcome to walk, wheel or stroll their way down the street to the Main Stage!

*Be sure to view our Tapestry of Hope, a wall of hope and healing where marchers can remember loved ones and others can share their thoughts of hope to end the gun violence tragedies. We encourage people to bring flowers, letters and memorabilia in honor of those who cannot march with us.

The Schedule

9:00 AM 9th Street Stage Activities/Performance Begins

Tent activities begin including:

Family Activities

Interactive Technologies Tent

Endorsing Organization Expo & Resource Center

Mother's Day Card to Congress Activity

10:00 AM Interfaith Service (9th Street Stage)

11:00 AM Million Mom March Begins: Processional of Marchers
to gather and march toward the Capitol (14th Street)

11:30 AM Pre-Program (4th Street Stage)

12:00 PM Main Program Begins (4th St. Stage), Rosie O'Donnell Emcees
Main Stage Activities/Performance

3:20 PM Main program concludes

4:00 PM 9th Street Stage Activities/Tent Activities Conclude

SATELLITE RALLIES NATIONWIDE

In addition to the march in Washington, DC marches are being organized in more than 50 state capitals and cities across the nation, including:

Arizona: Phoenix, Tucson

Arkansas: Little Rock

California: Los Angeles, Sacramento, Napa, San Diego, Oakland/San Francisco, Watsonville

Connecticut: New Milford, Hartford

Florida: Pompano Beach, Sarasota, Jacksonville, Stuart, Tampa

Georgia: Atlanta

Idaho: Boise
Illinois: Chicago, Champaign-Urbana
Indiana: Indianapolis, South Bend, Kokomo
Kansas: Lawrence
Kentucky: Louisville
Maine: Portland
Michigan: Lansing
New Hampshire: Concord
New York: Buffalo, Birmingham, Chappaqua, Staten Island
Nevada: Las Vegas
New Mexico: Santa Fe
Ohio: Cleveland, Willoughby
Oklahoma: Tulsa
Oregon: Portland, Eugene
Pennsylvania: Erie
Rhode Island: Providence
Tennessee: Chattanooga, Nashville, Knoxville
Texas: Austin, Ft. Worth/Dallas, San Antonio, San Fernando, Houston
Utah: Salt Lake City
Washington: Seattle, Bellingham

MILLION MOM MARCH - REGIONAL COORDINATORS

Region Contact States

Northeast Katina Johnstone Connecticut, Delaware, Maine, Maryland, Massachusetts
212-674-3569 New Hampshire, New Jersey, North Carolina, Pennsylvania,
KJStone@aol.com New York, North Carolina, Pennsylvania, Rhode Island,
Vermont, District of Columbia, West Virginia

Midwest Steve Young Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri,
312-648-4666 Nebraska, North Dakota, Ohio, South Dakota, Wisconsin
youngs@uhlich.org

Southeast Jaquie Algee Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana
404-292-2151 Mississippi, Oklahoma, South Carolina, Tennessee, Texas
bellse1@prodigy.net

Western Mary Leigh Blek Alaska, Arizona, California, Hawaii, Idaho, Montana,
949-206-0227 Washington, Wyoming
StopGunVio@aol.com

Local Contacts can be found on our website at www.millionmomsmarch.com/html/localinfo

REGISTRATION

It is crucial that you remind people when you are speaking to them to register for the Million Mom March. Our database is growing and it is the only way for us to reach them with updates and new information about the March as we get closer to May 14th. The Web Site is www.millionmomsmarch.com or they can call [1-888-989-MOMS](tel:1-888-989-MOMS).

Expires: 5-1-2001